



Littler Mendelson, P.C.
290 Broadhollow Road
Suite 305
Melville, NY 11747

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Lisa M. Griffith
631.247.4709 direct
631.247.4700 main
631.850.5363 fax
lgriffith@littler.com

VIA ECF

The Hon. Joan M. Azrack
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: *D'Aguino, et al. v. Garda CL Atlantic, Inc., Adkins, et al. v. Garda CL Atlantic, Inc.*
16 CV 00641 (JMA)(AKT)

Dear Judge Azrack:

As the Court is aware, we represent Defendant Garda CL Atlantic, Inc. in the above-referenced consolidated action. We write to respond to attorney Ann Ball's letter to the Court, dated April 23, 2020, with regard to the *Adkins* case, wherein she requests that the Court dismiss the three plaintiffs with whom Garda reached a settlement, so that the settlement payment can be issued. Ms. Ball is correct in that, according to the terms of the settlement agreement, payment is to be made after the Court dismisses the action. However, as the Court advised the parties at the last conference, the Court cannot take any actions in this matter because attorney Steve Moser filed an appeal of the Court's decision and order on Defendants' motion to dismiss the *Adkins* case. Moreover, contrary to what Mr. Moser represented to this Court, he did not withdrawn the appeal. In fact, the parties appeared for a CAMP conference scheduled for today with the Second Circuit Court of Appeals. The parties agreed to stipulate to withdraw the appeal, and Mr. Moser will be filing the stipulation with the Second Circuit.

Thus, the settlement payment was held up due to Mr. Moser's actions.

The *D'Aguino* settlement funds were distributed to the plaintiffs and Mr. Moser last week.

Respectfully submitted,

Littler Mendelson, P.C.

/s/ Lisa M. Griffith

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